IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929

Bail Appl..No. 6630 of 2007()

CRLMP.2678/2007 of DISTRICT COURT, ALAPPUZHA
CRIME NO.7/07 OF ALAPPUZHA NORTH POLICE STATION

.....

: PETITIONER/IST ACCUSED

P.S.BASHEER, S/O.SAIDALI, PERUMBILLY
HOUSE, EDAYAPURAM, ALUVA.

BY ADV. SRI.LIJU. M.P

RESPONDENTS: COMPLAINANT

STATE OF KERALA,
REPRESENTED BY SUB INSPECTOR OF POLICE,
ALAPPUZHA NORTH POLICE STATION,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6630 of 2007

Dated this the 13th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner is the 1st accused. He along with co-accused faces allegations under Section 420 r/w 34 I.P.C. The crux of the allegation is that the accused persons had together received an amount of Rs.1,01,000/- from the defacto complainant with a promise that visas for employment abroad shall be provided. The 2nd accused had allegedly received an amount of Rs.75,000/- and the petitioner herein had received an amount of Rs.26,000/-. Visas were not provided. Amounts were not returned. It was, in these circumstances, that the complaint was filed and the crime was registered.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. In fact, it was the 2nd accused who had transactions with the defacto complainant. The 1st accused had only intervened as a mediator. All the amount which he had received has since been returned to the defacto complainant. The defacto complainant has no surviving grievance against the petitioner. In these circumstances, the petitioner may be granted anticipatory bail, it is submitted.

3. The learned Public Prosecutor opposes the application. But there is no specific submission made on the assertion of the petitioner that the matter has been settled between the defacto complainant and the petitioner herein. Sufficient time has been given to take instructions on that aspect.

4. Considering the totality of circumstances, I am satisfied that the prayer of the petitioner for anticipatory bail can be accepted in the facts and circumstances of this case. Appropriate conditions can of course be imposed to ensure a proper, efficient and expeditious investigation.

5. In the result, the Bail Application is, allowed. The following directions are issued under Section 438 Cr.P.C.

i) The petitioner shall appear before the learned Magistrate at 11 a.m on 20.11.2007. He shall be enlarged on regular bail on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate;

ii) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m and 3 p.m on . 21.11.2007 and 22.11.2007 and thereafter between 10 a.m and 12 noon on all Mondays and Fridays for a period of one month.

Subsequently the petitioner shall make himself available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so;

iii) If the petitioner does not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioner and deal with him in accordance with law as if those directions were not issued at all;

iv) If the petitioner were arrested prior to his surrender on 20.11.07 as directed in clause (1) above, he shall be released from custody on his executing a bond for Rs.25,000/- (Rupees Twenty Five thousand only) without any sureties undertaking to appear before the learned Magistrate on 20.11.07.

(R.BASANT, JUDGE)

rtr/-